

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

HELEN REBECCA GRAVES-WYCKOFF,

Civil Action No.: **3:18-cv-6**

Plaintiff,

*Electronically filed.*

v.

DIAMOND STATE INSURANCE  
COMPANY and GLOBAL INDEMNITY  
GROUP, INC.,

ELECTRONICALLY FILED Jan 11 2018 U.S. DISTRICT COURT Northern District of WV
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Defendants.

**NOTICE OF REMOVAL**

**TO: THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

1. DIAMOND STATE INSURANCE COMPANY (“Diamond State”) and Global Indemnity Group, Inc. (“Global Indemnity”), are the Defendants in the civil action filed on or about September 11, 2017, in the Circuit Court of Berkeley County, West Virginia. Pursuant to the provisions of Sections 1441 and 1446 of Title 28 of the United States Code, Defendants, Diamond State and Global Indemnity, remove this action to the United States District Court for the Northern District of West Virginia, which is the judicial district in which the action is pending.

2. Plaintiff’s Complaint alleges claims that properly invoke the diversity jurisdiction of this Court, 28 U.S.C. § 1332. Specifically, Plaintiff’s Complaint alleges claims for Breach of the Duty of Good Faith and Fair Dealing (First Party Bad Faith) (Count I), Unfair Trade Practices, pursuant to W. Va. Code § 33-11-4(9) (Count II), Declaratory Judgment (Count III) and Breach of Contract (Count IV), as the result of the denial of an insurance claim arising out of water damage to property owned by the Plaintiff due to “water escaping from a crack in a toilet” that occurred on or about September 1, 2016 (Complaint, ¶¶ 3-8). A true and correct copy of Plaintiff’s Complaint is attached hereto as Exhibit “A.”

3. Removal of this action from the Circuit Court of Berkeley County, West Virginia to this Court is, therefore, proper under 28 U.S.C. § 1441(a) because this Court would have had original jurisdiction of the action under 28 U.S.C. § 1332 (Diversity of Citizenship Jurisdiction) had the action initially been filed in this Court.

4. Diversity of Citizenship Jurisdiction is properly invoked by Defendants, Diamond State and Global Indemnity, pursuant to 28 U.S.C. § 1332(a)(1) because:

- a. a plain reading of the Plaintiff's Complaint establishes that the matter in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00); and
- b. this civil action is between citizens of different states as Plaintiff is a citizen of West Virginia; Defendant, Diamond State, is a citizen of Indiana and Pennsylvania; and Defendant, Global Indemnity, is a citizen of Delaware and Pennsylvania. *See*, Plaintiff's Complaint, Exhibit A at ¶ 1 (establishing that Plaintiff is a citizen of West Virginia); and Declaration of Kate Wilkinson, attached hereto as Exhibit "B" (establishing Diamond State's citizenship in both Indiana and Pennsylvania and Global Indemnity's citizenship in both Delaware and Pennsylvania)<sup>1</sup>.

5. This Notice is timely under 28 U.S.C. § 1446(b) because the Plaintiff's Complaint in this action, which was filed on September 11, 2017, was served on both Defendants by the West Virginia Secretary of State on December 18, 2017.<sup>2</sup> This Notice of Removal is filed within thirty

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<sup>1</sup> As stated more fully in the Declaration of Kate Wilkinson, attached hereto as Exhibit B, Diamond State is an Indiana insurance corporation with its principal place of business located in Pennsylvania, and Global Indemnity is a Delaware corporation with its principal place of business located in Pennsylvania.

<sup>2</sup> *See*, Exhibit A (Plaintiff's Complaint with Summons reflecting service on December 18, 2017); *see also*, <http://apps.sos.wv.gov/business/service-of-process/Home/Search?CivilActionNumber=17-C-420&CertifiedNumber=&DefendantName=&ClerkId=3001&Country=>

(30) days of receipt of the Complaint and within one year of the commencement of the action, so that it is timely filed under 28 U.S.C. § 1446(b).

6. Pursuant to the provisions of 28 U.S.C. § 1446(a), Defendant attaches to this notice and incorporates by reference a copy of the following papers, which are all the process, pleadings, and orders served on them prior to removal of this action: Complaint with Summons and Cover Sheet (Exhibit A).

7. Pursuant to the provisions of 28 U.S.C. § 1446(d), a copy of this Notice has been served on the Plaintiff and a copy of this Notice has been filed with the Clerk of Court for the Circuit Court of Berkeley County, West Virginia.

8. In accordance with the provisions of 28 U.S.C. § 1446(b)(2), the undersigned certifies that all defendants who have been properly joined and served have consented to the removal of this civil action.

9. In asserting the basis for Diversity of Citizenship Jurisdiction pursuant to 28 U.S.C. § 1332, Defendants, Diamond State and Global Indemnity, do not concede any of the allegations in Plaintiff's Complaint.

Date: January 11, 2018

**JURY TRIAL DEMANDED**

Respectfully Submitted,

**MARGOLIS EDELSTEIN**

/s/ Kyle T. McGee

KYLE T. McGEE, ESQUIRE

WV I.D. No.: 11000

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*Counsel for Defendants, Diamond State Insurance  
Company and Global Indemnity Group, Inc.*

**CERTIFICATE OF SERVICE**

AND NOW, this 11<sup>th</sup> day January, 2018, I hereby certify that a true and correct copy of the foregoing Notice of Removal has been served upon the following counsel of record by First Class U.S. mail, postage prepaid:

Jared M. Adams, Esq.  
Adams Law Firm, PLLC  
P.O. Box 755  
Martinsburg, WV 25402  
*Counsel for Plaintiff, Helen Rebecca Graves-Wyckoff*

Date: January 11, 2018

**JURY TRIAL DEMANDED**

Respectfully Submitted,

**MARGOLIS EDELSTEIN**

/s/ Kyle T. McGee

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